APPENDIX "A"

Copy of Michigan Labor Mediation Law as amended by Bonine-Tripp Act of 1947 and as it stood when this controversy arose.[1]

Act 176, 1939, p. 336; Imd. Eff. June 8.

AN ACT to create a board for the mediation of labor disputes, and to prescribe its powers and duties; to provide for the mediation and arbitration of labor disputes, and the holding of elections thereon; to provide for the creation of arbitration boards; to regulate the conduct of parties to labor disputes and to require the parties to follow certain procedures; to regulate and limit the right to strike and picket; to protect the rights and privileges of employees, including the right to organize and engage to lawful concerted activities; to protect the rights and privileges of employers; to make certain acts unlawful; to prescribe penalites for violations of the provisions of this act; and to repeal sections 8616 to 8628, inclusive, of the Compiled Laws of 1929, and all other acts or parts of acts inconsistent with the provisions of this act.

The People of the State of Michigan enact:

423.1 Declaration of policy.

Sec. 1. It is hereby declared as the public policy of this state that the best interests of the people of the state are served by the prevention or prompt settlement of labor disputes; that strikes and lockouts and other forms of industrial

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[1] We copy the version set forth in Michigan Compiled Laws of 1948, §§ 423.1-423.22a. Bold-face catch-lines are those of the compiler.

strife, regardless of where the merits of the controversy lie, are forces productive ultimately of economic waste; that the interests and rights of the consumers and the people of the state, while not direct parties thereto, should always be considered, respected and protected; and that the voluntary mediation of such disputes under the guidance and supervision of a governmental agency will tend to promote permanent industrial peace and the health, welfare, comfort and safety of the people of the state.

HISTORY: Title Am. 1947, p. 524, Act. 318; Eff. Oct. 11.

423.2 Definitions.

Sec. 2. When used in this act, unless the language or context indicates otherwise:

(a). The term "company union" includes any employe association, committee, agency or representation plan, formed or existing for the purpose, in whole or in part, of dealing with employers concerning grievances or terms and conditions of employment, which in any manner or to any extent, and by any form of participation, interference or assistance, financial or otherwise, either in its organization, operation or administration, is dominated or controlled, sponsored or supervised, maintained, directed, or financed by the employer;

(b). The terms "dispute" and "labor dispute" shall include but are not restricted to any controversy between employers and employes or their representatives as above defined, concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining or changing terms or conditions of employment;

(c). The term "board" means the labor mediation board created by section 3 of this act;

(d). The term "commission" means any special commission appointed by the governor under the provisions of this act.

423.3 Labor mediation board; qualifications of members, terms.

Sec. 3. There is hereby created a state board to be known as the labor mediation board, which shall consist of 3 members appointed by the governor, with the advice and consent of the senate. Each member shall be a citizen of the United States and a resident of the state of Michigan, and shall have been a qualified elector in the state for a period of at least 5 years next preceding appointment. In order to insure impartiality, members of the board shall be selected without regard to political affiliations: Provided, That of the members first appointed 1 shall be appointed for a term of 1 year, 1 for a term of 2 years, and 1 for a term of 3 years, and thereafter all members shall be apointed for the term of 3 years each.

423.4 Same; oath of office; vacancies; removal; chairman; quorum.

Sec. 4. Members of the board shall qualify by taking and subscribing to the constitutional oath of office, and shall hold office until the appointment and qualification of their successors. Vacancies shall be filled in the same manner as is provided for appointment in the first instance for the remainder of the unexpired term. The governor shall designate 1 member to serve as chairman of the board. Any member of the board may be removed by the governor

for misfeasance, malfeasance or nonfeasance in office, after hearing. A vacancy in the board shall not impair the right of the remaining members to exercise all the powers of the board. Two members of the board shall at all times constitute a quorum; but official orders shall require concurrence of a majority of the board. The board shall have an official seal of which courts shall take judicial notice.

423.6 Secretary, compensation; assistant; expenses.

Sec. 5. The members of the board shall receive compensation of $20.00 per day when in actual performance of duties under the provisions of this act: Provided, That the total compensation for each member of the board shall not exceed $5,000 per annum. Members and employes of the board shall be entitled to actual and necessary traveling and other expenses incurred in the performance of duties under this act. The compensation and expenses of members and employes of the board shall be paid in accordance with the accounting laws of the state.

423.6 Secretary, compensation; assistants, expenses.

Sec. 6. The board may appoint a secretary, who shall receive such compensation and perform such duties and have such powers as the board shall prescribe, and such assistants and employes as it may from time to time find necessary for a proper performance of its duties, who shall be entitled to receive actual and necessary travel and other expenses incurred in the performance of their duties, and such compensation as shall be determined by the board, subject to the laws of this state with respect thereto. The board is also authorized to incur such other expense as may be necessary to carry out the provisions of this act.

423.7 Offices; rules and regulations, authority of board to adopt.

Sec. 7. The principal office of the board shall be in the city of Lansing. It shall be the duty of the board of state auditors to provide suitable office space for the use of the board. The board shall have authority from time to time to make, amend and rescind such rules and regulations as may be necessary to carry out the provisions of this act.

423.8 Right to organize; collective bargaining.

Sec. 8. It shall be lawful for employes, to organize or to form, join or assist in labor organization, to engage in lawful concerted activities for the purpose of collective negotiation or bargaining or other mutual aid and protection, or to negotiate or bargain collectively with their employers through representatives of their own free choice.

423.9 Acts required prior to strike or lockout; notice of dispute, service, time; settlement by mediation.

Sec. 9. No strike or lockout shall take place or be put into effect until and unless each of the steps have been taken and the requirements complied with as provided in this act.

1. In the event the parties thereto are unable to settle any dispute, the employees or their representative, in the case of impending strike, or the employer or his agent, in the case of an impending lockout, shall serve notice upon the board of such dispute together with a statement of the issues involved. Said notice may be served personally on any member of the board and a copy thereof personally served upon the other party, or sent by registered mail to the board at a regularly established office thereof and to

the employer at his regular address not less than 10 days before the strike or lockout is to become effective, or in case of an industry affected with a public interest or a public utility or hospital, said notice shall be so served not less than 30 days before the strike or lockout is to become effective.

2. Upon receipt of such notice it shall be the duty of the board to exercise the powers herein granted to effect a settlement of such dispute by mediation between the parties. Prior to the calling of an election as provided hereinafter, it shall be the duty of each of the parties to such dispute to actively and in good faith participate in the mediation thereof. At least 1 member of the board, to be designated by the chairman, shall actively participate in the negotiations to mediate any dispute in an industry affected with a public interest including any public utility or hospital.

HISTORY: Am. 1947, p. 524, Act 318, Eff. Oct. 11.

423.9a Election to srtike; board, notice, holding election, time; expenses; secret ballot; rules, violations.

Sec. 9a. In the event that it becomes apparent to the board that there is no reasonable probability of settlement of such dispute by mediation and that further efforts to that end would be without avail, there shall be held in the case of any impending strike, an election upon such issue which election shall be conducted and supervised by the board. In the event either party to said dispute notifies the board in writing, a copy of which shall at the same time be served on the other party, that in the opinion of such party, further efforts to settle such dispute by mediation

would be without avail, it shall be the duty of the board to cause an election to be held within 10 days of the receipt of such notice unless it is not practical to hold such election within said period, in which event said election shall be held within 20 days of receipt of such notice: Provided, That such board need not call more than 1 election involving the issues set forth in the notice served upon the board. The expense of such election shall be defrayed by the parties to such dispute either equally or upon such other basis as may be agreed upon. Every employee in the bargaining unit shall be entitled to vote in such election and in order to authorize a strike under the provisions of this act, a majority of all employees in such bargaining unit must vote in favor of such action. Said election shall be by secret ballot, and shall be held on the premises where those voting are employed. The board shall have the power and authority to promulgate such rules and regulations as shall be necessary to effectively conduct any election and the wilful violation of any such rules and regulations shall be a violation of the provisions of this act.

HISTORY: Am. 1947, p. 524, Act 318, Eff. Oct. 11.

423.9b Ceasing employment or operation of business during mediation or until strike authorized, prohibited.

Sec. 9b. It shall be the duty of both employees and employer to avoid a cessation of employment or a change in the normal operation of the business during the entire period in which the respective steps required by section 9 of this act are being taken or until a strike is authorized by an election held as provided in section 9a.

HISTORY: Add. 1947, p. 525, Act 318, Eff. Oct. 11.

423.9c Jurisdictional dispute, bargaining unit representation; mediation; election, expenses, rules, violation; strike limitations.

Sec. 9c. Whenever a jurisdictional dispute arises in regard to representation of employees in any bargaining unit, it shall be the duty of each party to such dispute or its representative to at once file with the board a statement of the claim of such party and at the same time serve a copy upon each interested party. Upon receipt thereof it shall be the duty of the board, if possible, to settle such dispute by mediation. If the dispute cannot be settled, the board shall call an election of the employees in the unit involved, as such unit is herein provided, to determine such issue as provided in section 9a of this act. No strike shall take place or be put into effect pending the determination of such issue as herein provided. The expense of such election shall be paid by the union or unions contending for such right of representation. The board shall have the power and authority to promulgate such rules and regulations as shall be necessary to effectively conduct any election and the wilful violation of any such rules and regulations shall be a violation of the provisions of this act.

HISTORY: Add. 1947, p. 525, Act 318, Eff. Oct. 11.

423.9d Agreements to arbitrate, procedure; board of arbitration, powers; determination, filing, court enforcement.

Sec. 9d. Disputes may be submitted to and determined by a board of arbitration if the parties thereto shall agree to such procedure in writing, which agreement shall be filed with the board. Such board of arbitration shall be appointed in the same manner as provided in section 13 of this act for the appointment of an arbitration board, except that notice thereof, including a copy of such agreement, shall

be transmitted by the board to the circuit judge or presiding judge of such county, but not to the governor. Such board of arbitration shall have all the powers conferred upon an arbitration board by sections 13 and 13a of this act and shall file its determination as therein provided, which shall have like effect and the court shall have a like authority to enforce the same as therein specified. Members of the board of arbitration shall be compensated out of the general fund, upon the same basis as members of an arbitration board as provided in section 13 of this act.

HISTORY: Add. 1947, p. 526, Act 318, Eff. Oct. 11.

CONSTITUTIONALITY: See note to Compilers' § 423.13.

423.9e Arbitration board; determination of bargaining unit; adopting unit recognized by employer.

Sec. 9e. The board, after consultation with the parties, shall determine such a bargaining unit as will best secure to the employees the right of collective bargaining. The unit shall be either the employees of 1 employer employed in 1 plant or business enterprise within this state, not holding executive or supervisory positions, or a craft unit, or a plant unit, or a subdivision of any of the foregoing units: Provided, however, That if the group of employees involved in the dispute has been recognized by the employer or identified by certification, contract of past practice, as a unit for collective bargaining, the board shall adopt such unit.

HISTORY: Add. 1947, p. 526, Act 318, Eff. Oct. 11.

423.9f Unlawfulness of mass picketing, threats, intimidation or coercion; picketing private residence prohibited.

Sec. 9f. It shall be unlawful to hinder or prevent by mass picketing, threats, intimidation, force or coercion of any kind the pursuit of any lawful work or employment, or

to obstruct or interfere with entrance to or egress from any place of employment, or to obstruct or interfere with free and uninterrupted use of public roads, streets, highways, railways, airports, or other ways of travel or conveyance. It shall be unlawful for any person acting either individually or as one of a group to engage in picketing a private residence by any means or method whatsoever: Provided, That picketing, to the full extent that the same is authorized under constitutional provisions, shall in no manner be prohibited.

HISTORY: Add. 1947, p. 526, Act 318, Eff. Oct. 11.

423.9g Strike election vote; ballot, statement of employer's latest offer to bargaining unit.

Sec. 9g. Whenever a vote is held pursuant to this act on the question of calling a strike, the board, if so requested by the employer or by the collective bargaining unit to be affected by the strike, shall cause to be either printed on the ballot or affixed thereto a copy or statement of the most recent offer submitted by the employer to the bargaining unit representing the employees in the course of collective bargaining negotiations between said employer and said unit.

HISTORY: Add. 1947, p. 525, Act 318, Eff. Oct. 11.

423.10 Board, duty and authority to assist in settlement.

Sec. 10. After the board has received the above notice, or upon its own motion, in an existing, imminent or threatened labor dispute, the board may and, upon the direction of the governor, the board must take such steps as it may deem expedient to effect a voluntary, amicable and expeditious adjustment and settlement of the differences and issues between employer and employes which have precipitated

or culminated in or threatened to precipitate or culminate in such labor dispute. To this end, it shall be the duty of the board:

(a). To arrange for, hold, adjourn or reconvene a conference or conferences between the disputants and/or 1 or more of their representatives;

(b). To invite the disputants and or their representatives to attend such conference and submit, either orally or in writing, the grievances of and differences between the disputants;

(c). To discuss such grievances and differences with the disputants or their representatives; and

(d). To assist in negotiating and drafting agreements for the adjustment or settlement of such grievances and differences and for the termination or avoidance, as the case may be, of the existing or threatened labor dispute.

In carrying out any of its work under this act, the board may designate 1 of its members or an officer of the board to act in its behalf and may delegate to such designee 1 or more of its duties hereunder and, for such purpose, such designee shall have all the powers hereby conferred upon the board in connection with the discharge of the duty or duties so delegated.

423.11 Hearings; witnesses; service of process.

Sec. 11. The board and each member thereof and each person designated thereby shall have power to hold public or private hearings at any place within the state, subpoena witnesses and compel their attendance, administer oaths, take testimony and receive evidence. Subpoenas may be

issued only after the mediation of a dispute shall have been actually undertaken.

(a). In case of contumacy or refusal to obey a subpoena issued to any person, the circuit court of any county within the jurisdiction of which the inquiry is carried on, upon application by the board or commission, shall have jurisdiction to issue to such person an order requiring such person to appear before the board or commission, to produce evidence or to give testimony touching the matter in question. Failure to obey any such order may be punished by the court as a contempt thereof.

(b). Process and papers of the board or commission may be served either personally or by registered mail or by telegraph or by leaving a copy thereof at the principal office or place of business of the person to be served. Return by the individual serving the same setting forth the manner of such service, return post office receipt or telegraph receipt therefor, shall be proof of service of the same.

423.12 Disqualification of member of board.

Sec. 12. No member or officer of the board having any financial interest in or having membership in or affiliation with any labor organization in a trade, business, or occupation in which a labor dispute exists or is threatened and of which the board has taken cognizance, shall be qualified to participate in any way in the acts or efforts of the board in connection with the settlement or avoidance thereof.

423.13 Voluntary or compulsory arbitration, effecting municipally owned public utility or hospital; procedure.

Sec. 13. In the event of a dispute arising in any public utility, any municipally owned utility, or any hospital, the

board shall not call an election as provided in section 9a of this act, but shall instead certify to the governor the existence of such dispute and the failure to settle the same by mediation. A copy of such certification shall be immediately transmitted to the respresentative of the employees, to the employer or his agent and to the presiding circuit judge of this state. Whereupon the parties to the dispute, or their representatives, may within 10 days voluntarily agree to submit the issues of the dispute to an arbitration board of their own choosing, in which event both parties to the dispute shall notify the board that they have so agreed. If they fail to do so, an arbitration board shall then be established of which a circuit judge designated by the presiding circuit judge of the state, shall be chairman. The employees or their representative and the employer or his agent shall each appoint 1 member of such arbitration board, which appointment shall be made within 5 days from the date of service of a copy of such certification and notice of such appointment shall be forthwith given to the labor mediation board, the governor and such circuit judge or presiding circuit judge. In the event of the failure to make any such appointment within the time herein limited, the governor shall make such appointment in writing, file a copy thereof with the board, such circuit judge or presiding judge and furnish copy thereof to each of the interested parties.

It shall be the duty of such arbitration board to hold public hearings at any place in the state for the purpose of making a determination of the issues involved in such dispute. Such arbitration board shall have the authority to subpoena witnesses, to compel their attendance, administer oath, take testimony and receive evidence. Such arbitration board shall, as soon as practicable, but within 30 days from the date the issues have been submitted, make a determination of the issues involved in said dispute, file a written

copy thereof with the labor mediation board and cause a copy to be delivered by registered mail or otherwise to the employees or their representative and the employer or his agent. A determination by any 2 members of the arbitration board shall be deemed to be the determination of such board. A copy thereof shall also be filed in the office of the county clerk of the county in which is located such principal place of employment. The terms and conditions of employment of such employees shall be modified in accordance with such determination from the date specified therein and shall be binding on the employer and his agent and the employees and their representative. Whenever any act is required to be performed according to the provisions hereof within a given time limitation, except serving of notices of the existence of disputes, the period so limited may be extended by agreement in writing by all parties concerned.

Each member of the arbitration board, except such circuit judge, shall be entitled to receive compensation of $25.00 per day during the period of the actual performance of his duties under this act. Each member shall receive his actual travel and other necessary expenses incurred during said period which shall be paid out of the general fund.

HISTORY: Am. 1947, p. 526, Act. 318, Eff. Oct. 11.

CONSTITUTIONALITY: Insofar as the amendatory act conferred nonjudicial powers upon the circuit judge, it is unconstitutional. Local 170, Transport Workers Union of America v. Genesee Cir. Judge, 322 Mich. 332.—NW (2d).

423.13a Circuit court aid in compelling attendance or testimony of witnesses; subpoena, contempts; injunctions.

Sec. 13a. In case of the disobedience of a subpoena, the board may invoke the aid of any circuit court of the state of Michigan in requiring the attendance and testimony of witnesses pertaining to the issues involved. Any circuit

court of this state within the jurisdiction of which such hearings are being held, may in the case of contumacy or refusal to obey a subpoena issue an order requiring such person to appear before said board and give evidence pertaining to the matter in question and any failure to obey such order of the court may be punished by such court as contempt thereof. Any failure to obey a subpoena issued by an arbitration board or contumacy before such board, may be punished by any circuit court of this state within the jurisdiction of which such hearings are being held, as contempt of such court.

Nothing in this act shall be construed to require an employee to continue rendering labor or service without his consent or to make illegal the quitting of his employment. No court shall have power to issue any process to compel any such employee to continue to render such labor or remain at his place of employment without his consent.

If after the determination is filed as above provided there is an actual or threatened cessation of employment which causes or may reasonably be expected to result in injury to the public welfare, peace, health or safety the circuit court in chancery of the county in which said determination is filed shall have jurisdiction to issue such injunction as the court may deem proper and adequate to protect the public welfare and preserve public peace, health and safety, subject however to the limitations hereinabove set forth: Provided, That no circuit judge shall issue an injunction or preside in any case involving a dispute in which a determination has been made by a board of which he was chairman. In the event that he is the only circuit judge in such circuit, then the judge of any adjoining circuit or other judge designated by the state persiding judge shall have jurisdiction to issue a temporary injunction or order to show cause, including a restraining order in such matter, and the

same shall be brought on to be heard before a judge designated by the presiding circuit judge of the state.

HISTORY: Add. 1947, p. 527, Act 318, Eff. Oct. 11.

423.14 Closed Shop; agreements between employer and union.

Sec. 14. Nothing in this act shall be construed to interfere with the right of an employer to enter into an all-union agreement with 1 labor organization if it is the only organization established among his employes and recognized by him, by consent, as the representative of a majority of his employes; nor shall anything in this act be construed to interfere with the right of the employer to make an all-union agreement with more than 1 labor organization established among his employes if such organizations are recognized by him, by consent, as the representatives of a majority of his employes.

423.15 Unlawful taking possession of property, penalty.

Sec. 15. It shall be unlawful for any person to enter or take part in entering upon or take possession or control of any property or withhold possession of property, against the will of the owner thereof, or other person in the rightful possession or use thereof, or interfere with the free use thereof, whether the same be accomplished by force, threats, intimidation, artifice or strategem. Violation of this provision shall be a misdemeanor and punishable as such.

423.16 Company unions, interference with unions and discrimination prohibited; penalty.

Sec. 16. It shall be unlawful for an employer to initiate, create, dominate, contribute to, or interfere with the forma-

tion or administration of any labor organization; to discriminate in regard to hire, terms or other conditions of employment in order to discourage membership in any labor organization; or encourage membership in, or initiate, create, dominate, or contribute to a company union; or to discriminate against an employe because he has given testimony before the board or commission. Violation of this section shall be a misdemeanor and punishable as such.

423.17 Coercion to join union or to refrain from work; penalty.

Sec. 17. It shall be unlawful for any employe or other person by force, coercion, intimidation or threats to force, or attempt to force any person to become or remain a member of a labor organization, or for any employe or person by force, coercion, intimidation or threats, to force or attempt to force any person to refrain from engaging in employment. Violation of this section shall be a misdemeanor and punishable as such.

Sec. 18. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

423.19 Liberal construction of act; police powers.

Sec. 19. This act shall be deemed an exercise of the police power of the state of Michigan for the protection of the public welfare, safety, prosperity, health and peace of the people; and all the provisions of this act shall be liberally construed for the accomplishment of said purposes.

423.20 Expense; persons exempt from act.

Sec. 20. The expenses of carrying out the provisions of this act shall be paid from appropriations made therefor by the legislature. The provisions of this act shall not apply to employes or employers under the jurisdiction of the railway labor act nor to any dispute between employers or employes involving farm labor or domestic employment.

Sec. 21. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 230, 1915, C. L. 1929, 8616-8628.

423.22 Unlawfulness of calling or causing strike or lockout before serving notice, pending mediation, election or arbitration; other violations; penalties.

Sec. 22. Any person who either individually or as 1 of a group of persons instigates a strike, or who shall call or cause a strike to be placed in effect, or who shall cause or call a lockout, without first having served notice as required in section 9 of this act, or while mediation is pending as provided in section 9c of this act, or while an election is pending under said section 9, or while arbitration proceedings are pending under sections 9d and 13 of this act, or any person who shall engage in unauthorized picketing as prohibited by this act, or who shall knowingly and wilfully violate any of the rules or regulations promulgated under section 9a and section 9c, or any of the provisions of section 9f, shall upon conviction thereof be punished by a fine of not more than $1,000.00 or by imprisonment in the county jail for not more than 6 months, or by both such fine and imprisonment.

HISTORY: Add. 1947, p. 528, Act 318, Eff. Oct. 11.

423.22a Use of other legal or equitable remedy.

Sec. 22a. The board, or any person, labor organization, firm or corporation may pursue any proper legal or equitable remedy or relief in any court of competent jurisdiction for any act or conduct in violation of any of the provisions of this act.

HISTORY: Add. 1947, p. 528, Act 318, Eff. Oct. 11.

APPENDIX "B"

Pertinent sections of Michigan Labor Mediation Law, as amended by Act No. 230, Mich. Pub. Acts 1949, effective June 23, 1949, viz., §§ 2 (b), 9, 9a, 15, 16, 17, 22 and 24.

§ 2 (b)

Sec. 2. When used in this act, unless the language or context indicates otherwise:

(b). The terms "dispute" and "labor dispute" shall include but are not restricted to any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of employees in negotiating, fixing, maintaining or changing terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

§ 9

Sec. 9. No strike or lockout shall take place or be put into effect until and unless each of the steps have been taken and the requirements complied with as provided in this section.

1. In the event the parties thereto are unable to settle any labor dispute, the employees or their representatives, in the case of impending strike, or the employer or his agent, in the case of an impending lockout, shall serve notice of such dispute together with a statement of the issues involved upon the board and the other party to the dispute. Said notice may be served personally on any member of the board and a copy thereof personally served upon the other party, or sent by registered mail to the board at a

regularly established office thereof and to the employer or the representative of his employees at his regular address not less than 10 days before the strike or lockout is to become effective, or in the case of an industry rendering a hospital or public utility service, said notice shall be so served not less than 30 days before the strike or lockout is to become effective.

2. Upon receipt of such notice it shall be the duty of the board to exercise the powers herein granted to effect a settlement of such dispute by mediation between the parties. Prior to the calling of an election as provided hereinafter, it shall be the duty of each of the parties to such dispute to actively and in good faith participate in the mediation thereof. At least 1 member of the board, to be designated by the chairman, shall actively participate in the negotiations to mediate any dispute in an industry rendering a hospital or public utility service.

§ 9a

Sec. 9a. (1). In the event that it becomes apparent to the board that there is no reasonable probability of settlement of a labor dispute by mediation and that further efforts to that end would be without avail, there shall be held in the case of an impending strike, an election upon such issue which election shall be conducted and supervised by the board, or by its duly authorized representative. In the event either party to said dispute notifies the board in writing, a copy of which shall at the same time be served on the other party, that, in the opinion of such party, further efforts to settle said dispute by mediation would be without avail, it shall be the duty of the board to cause an election to be held within 10 days of the receipt of such notice unless it is not practicable to hold such election within said period, in which event said election shall be held

within 20 days of receipt of such notice. Every employee in the bargaining unit, which is involved in such dispute, as such bargaining unit is determined under section 9e of this act or as recognized by the employer or as identified by contract or past practice, shall be entitled to vote in such election and in order to authorize a strike under the provisions of this act, a majority of all employees casting valid ballots must vote in favor of such action. Said election shall be by secret ballot, and shall be held on the premises where those voting are employed unless the board shall determine that the election cannot be fairly held there, in which case it shall be held at such place as the board shall determine. The board shall have the power and authority to promulgate such rules and regulations as shall be necessary to effectively conduct any election, including provisions for absentee voting. Such provisions shall facilitate voting by all employees, but shall also insure secrecy of the ballot. The wilful violation of any such rules and regulations shall be a violation of the provisions of this act. The board shall also have the power and authority to determine, after proper hearing (which may be held either before or after an election and may be conducted by a duly authorized representative of the board) any disputed issue concerning the eligibility of a person or persons to vote in such election. Any such determination with respect to eligibility shall be applicable to the administration of this section, but shall have no force and effect for any other purpose under this act.

(2). Anything in this section to the contrary notwithstanding, if a dispute involves a hospital or public utility service, and said dispute is certified to the governor as provided in section 13a of this act, an election under this section 9a shall not be conducted until the expiration of at least 10 days following the filing with the governor of the report of such special commission.

§ 15

Sec. 15. It shall be unlawful for any person to enter or take part in entering upon, or take possession or control of, any property, or to withhold possession of property, against the will of the owner thereof, or other person in the rightful possession or use thereof, or to interfere with the free use thereof, whether the same be accomplished by force or unlawful threats. Violation of this provision shall be a misdemeanor and punishable as such.

§ 16

Sec. 16. It shall be unlawful for an employer or any officer or agent of an employer (1 to interfere with, restrain, or coerce employees in the exercise of their right to self-organization, (2) to initiate, create, dominate, contribute to, or interfere with the formation or administration of, any labor organization; (3) to discriminate in regard to hire, terms or other conditions of employment in order to encourage or discourage membership in any labor organization; (4) or encourage membership in, or initiate, create, dominate, or contribute to a company union; or (5) to discriminate against any employee because he has given testimony or instituted a proceeding under this act. Violation of this section shall be a misdemeanor and punishable as such.

§ 17

Sec. 17. It shall be unlawful (1) for any employee or other person by force or unlawful threats to force, or attempt to force any person to become or remain a member of a labor organization, or (2) for an employee or other person by force or unlawful threats to force or attempt to

force any person to refrain from engaging in employment. Violation of this section shall be a misdemeanor and punishable as such.

§ 22

Sec. 22. (a). It shall be unlawful for an employer to engage in a lockout or for a labor organization to engage in or instigate a strike (1) without first having served notice as required in section 9 of this act, or (2) which has not been authorized by a vote of employees as required by section 9a of this act, or (3) while mediation is pending or proceeding with respect to the issues involved under section 9a of this act, or (4) while mediation or an election is pending under section 9c of this act, or (5) while any of the procedures specified in sections 13a to 13e, inclusive, are pending or proceeding with respect to the issues involved. Any employer or labor organization which commits such unlawful act, shall upon conviction thereof, be punished by a fine of not more than $1,000.00 for each such violation, and for this purpose each day during which such unlawful act occurs or continues shall be deemed to constitute a separate offense.

(b). It shall be unlawful for any individual to instigate a lockout or strike which is unlawful under this section. Any individual who commits such unlawful act, shall, upon conviction thereof, be guilty of a misdemeanor and punishable as such.

(c). The board, the attorney general, or any prosecuting attorney, on behalf of the people, or any individual or person, may pursue any appropriate legal or equitable remedy or other relief in any circuit court having jurisdiction with respect to any act or conduct in violation of any of the pro-

visions of this act. The existence of a criminal penalty with respect to any such act or conduct shall not be deemed to preclude appropriate equitable relief.

§ 24

Sec. 24. Any person who shall conspire with 1 or more other persons to violate any of the provisions of this act, violation of which is made a penal offense hereunder, shall upon conviction thereof, be deemed guilty of a misdemeanor, and punished by a fine of not to exceed $1,000.00, or by imprisonment of not to exceed 6 months, or both.

APPENDIX "C"

Pertinent provisions of Labor Management Relations Act, 1947, viz., § § 10 (a), 14 (a), 202 (c), 203 (a) and (b), and 303 (b), supplementing appellants' Appendix "B". 61 Stat. 146, 151, 153 and 158.

§ 10 (a)

"Sec. 10. (a) The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in section 8) affecting commerce. This power shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, law, or otherwise: *Provided*, That the Board is empowered by agreement with any agency of any State or Territory to cede to such agency jurisdiction over any cases in any industry (other than mining, manufacturing, communications, and transportation except where predominantly local in character) even though such cases may involve labor disputes affecting commerce, unless the provision of the State or Territorial statute applicable to the determination of such cases by such agency is inconsistent with the corresponding provision of this Act or has received a construction inconsistent therewith."

§ 14 (a)

"Sec. 14. (a) Nothing herein shall prohibit any individual employed as a supervisor from becoming or remaining a member of a labor organization, but no employer subject to this Act shall be compelled to deem individuals defined herein as supervisors as em-

ployees for the purpose of any law, either national or local, relating to collective bargaining."

§ 202 (c)

"Sec. 202. . . .

(c) The principal office of the [Federal Mediation and Conciliation] Service shall be in the District of Columbia, but the Director may establish regional offices convenient to localities in which labor controversies are likely to arise. . . . The Director may establish suitable procedures for cooperation with State and local mediation agencies. . . .".

§ 203 (a) and (b)

"Sec. 203. (a) It shall be the duty of the Service, in order to prevent or minimize interruptions of the free flow of commerce growing out of labor disputes, to assist parties to labor disputes in industries affecting commerce to settle such disputes through conciliation and mediation.

(b) The Service may proffer its services in any labor dispute in any industry affecting commerce, either upon its own motion or upon the request of one or more of the parties to the dispute, whenever in its judgment such dispute threatens to cause a substantial interruption of commerce. The Director and the Service are directed to avoid attempting to mediate disputes which would have only a minor effect on interstate commerce if State or other conciliation services are available to the parties. Whenever the Service does proffer its services in any dispute, it shall be

the duty of the Service promptly to put itself in communication with the parties and to use its best efforts, by mediation and conciliation, to bring them to agreement."

§ 303 (b)

"**Sec. 303. (b)** Whoever shall be injured in his business or property by reason or of any violation of subsection (a) may use therefor in any district court of the United States subject to the limitations and provisions of section 301 hereof without respect to the amount in controversy, or in any other court having jurisdiction of the parties, and shall recover the damages by him sustained and the cost of the suit."

APPENDIX "D"

Official reports and releases issued by the Michigan Labor Mediation Board

1

Annual Report of Michigan Labor Mediation Board June 1947

Labor disputes handled by the Michigan Labor Mediation Board show an increase of 33 percent over last year, it was disclosed today in the annual report of the Board. The 3,301 cases received during the fiscal year beginning July 1, 1946 and ending June 30, 1947 also represents approximately five times the 666 cases received during the Board's first year of operations in 1939-1940.

Although the number of cases handled have shown a marked and progressive increase in the seven intervening years—with the exception of 1942-1943 when for a period, organized labor's no-strike pledge was in effect—strikes have decreased in number since the all-year high of 713 in 1944-1945 and amounted to only 278 this fiscal year—a drop of 147 strikes from last year's figure.

Chairman Philip Weiss of the Mediation Board attributes the success of the mediators in settling disputes before they reach the strike stage to the Board's policy of preventing primarily and settling secondarily, labor disputes. Weiss indicated that this policy is carried out partly by the Board's advisory capacity in matters that might easily develop into disputes, and partly by the Board's educational program to bring about a better understanding on the part of both labor and management of what the Board can do to assist them in the solution of their problems.

The report shows that manufacturing maintained top place in the types of industries involved by strikes, with a total percentage of over 64.4. Service (including transportation) was second with a percentage of 15.1 this fiscal year, and construction and wholesale-retail were almost tied for third place with 10.4 and 10.1 respectively.

Chief reasons for strikes were: wages, 46.1; contract, 12.8; discharge of employees, 10.4; recognition, 9.1; working conditions, 6.1; discipline, 2.0; jurisdictional, 1.7; seniority, 0.7 and other various reasons totaled 11.1 percent.

The most strikes occurred in the 1946-1947 fiscal period during the month of June with a total of 37 on record. July, 1946 was second high with a total of 35. December was low with only six strikes, and was the only month with less than 13 strikes on record.

Although June had the highest strike record for the fiscal period, approximately half as many new cases were received that month as in May, which had the highest number of new cases, totaling 623. The fewest cases were received in November (72) and December (82). All others were over the one hundred mark, with an average throughout the year of 275 new cases per month.

The number of people involved in Michigan strikes has decreased from 301,165 in the fiscal year 1945-1946 to 165,839 for the period 1946-1947. (In 1944-1945 a total of 687,491 persons were involved.) Man hours lost for the past fiscal year were 22,141,051 as compared to the previous (1945-1946) figure of 38,130,058.

STATE OF MICHIGAN
LABOR MEDIATION BOARD

The following tables show the number of cases received, together with the total number of persons employed by the establishments in which these disputes occurred, for the fiscal year beginning July 1, 1947 and ending June 30, 1948, and strike data for the same period.

Month	Cases Received	Total Employment
July	122	65,273
August	250	67,794
September	502	55,656
October	406	39,825
November	172	29,792
December	243	109,915
January	563	45,499
February	253	78,990
March	878	221,645
April	705	164,088
May	281	80,436
June	356	237,126
Totals	4,771	1,196,039

Month	Strikes	No. of Persons Involved	Total Employment	No. of Man Days Lost
July	20	32,802	55,368	261,997
August	22	5,264	29,466	164,242
September	5	281	322	30,927
October	7	2,746	7,635	23,480
November	2	67	3,050	19,215½
December	2	254	306	3,082
January	6*	1,020	17,560	23,860
February				11,575**
March	7	1,689	17,855	19,089
April	8	12,907	20,552	34,221
May	8	70,205	70,510	1,134,890
June	20	20,882	23,288	240,734
Totals	107***	148,117	245,911	1,967,321½

*Includes 1 lockout.

**Man days and hours lost during this month represent those lost in strikes and lockouts which began in previous months and continued during the month of February.

***This includes "wild-cat" or illegal strikes. Of the disputes in which the Board had jurisdiction by direct notification and strike election as provided by the Labor Mediation Act, only 1% reached the point of work stoppage after mediation began.

ADDITIONAL COMPARATIVE DATA

Fiscal Period	Cases Received	Strikes
1939-1940	666	66
1940-1941	905	156
1941-1942	1,226	239
1942-1943	829	221
1943-1944	1,225	553
1944-1945	1,435	713
1945-1946	2,168	425
1946-1947	3,301	278
1947-1948	4,771	107
Totals	16,526	2,758*

(*Including "wild-cat" or illegal strikes.)

Fiscal Period	No. of Strikes	No. of Persons Involved	No. of Man Days Lost
1943-1944	553	312,144	1,052,082
1944-1945	713	687,491	1,702,180
1945-1946	425	301,165	4,766,287
1946-1947	278	165,839	2,767,631
1947-1948	107	148,117	1,967,321½

It will be noted that the number of cases received during the past fiscal year, 1947-48, has increased by 45% over the fiscal year 1946-47.

Also noteworthy is the fact that the number of strikes during that same period has decreased from 278 to 107, or 62%.

As of June 30, 1948, the active case load was 1,506 cases, and, of course, all cases other than those included in the active case load have been settled and closed.

Percentage Data Regarding Strikes

July 1, 1947-June 30, 1948

Types of Industries Involved	%
Manufacturing	82.2
Service (including transportation)	11.2
Wholesale-Retail	4.7
Construction	1.9

Reasons for Strikes	%
Wages	35.5
Working Conditions	5.9
Contract	28.9
Recognition	7.6
Seniority	1.7
Discharge	11.9
Jurisdictional	1.7
Discipline	6.8

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Statistics released by Michigan Labor Mediation Board June 1948

STATE OF MICHIGAN

LABOR MEDIATION BOARD

The following tables show the number of cases received, together with the total number of persons employed by the establishments in which these disputes occurred, for the

fiscal year beginning July 1, 1946 and ending June 30, 1947, and strike data for the same period.

Month	Cases Received	Total Employment
July	212	78,809
August	109	39,669
September	140	58,288
October	437	153,877
November	72	20,949
December	82	46,183
January	161	50,613
February	206	35,914
March	396	36,215
April	550	265,917
May	623	184,623
June	313	89,271
Totals	3,301	1,060,328

*This includes "wild-cat" strikes. Of the disputes in which the Board had

Month	Strikes	No. of Persons Involved	Total Employment	No. of Man Hours Lost
July	35	8,776	28,238	2,260,205½
August	28	13,000	17,869	1,189,171½
September	31	21,208	31,505	1,300,202
October	15	4,369	12,306	546,955
November	18	3,416	9,040	470,773
December	6	2,976	21,581	655,349
January	28	17,751	18,534	423,153
February	13	803	3,238	661,978
March	18	3,139	3,689	238,831
April	26	41,148	62,283	6,241,572
May	23	30,616	107,520	5,578,816
June	37	18,577	74,841	2,574,045
Totals	278*	165,839	390,644	22,141,061

*This includes "wild-cat strikes. Of the disputes in which the Board had jurisdiction by direct notification as provided in the Labor Mediation Act, less than 4% reached the point of work stoppage after mediation was begun.

ADDITIONAL COMPARATIVE DATA

Fiscal Period	Cases Received	Strikes
1939-1940	666	66
1940-1941	905	156
1941-1942	1,226	239
1942-1943	829	221
1943-1944	1,225	553
1944-1945	1,435	713
1945-1946	2,168	425
1946-1947	3,301	278
Totals	11,755	2,651*

(*Including "wild-cat" or illegal strikes.)

Fiscal Period	No. of Strikes	No. of Persons Involved	No. of Man Hours Lost
1943-1944	553	312,144	8,416,656
1944-1945	713	687,491	13,617,441
1945-1946	425	301,165	38,130,058
1946-1947	278	165,839	22,141,051